IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WA.No. 658 of 2007()
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AGAINST THE JUDGEMENT IN WPC.22172/2005 Dated 06/10/2006
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APPELLANT:
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HARRIET MATHEW P., AGED 30 YEARS,
D/O.LATE P.T. MATHEW, KONGATH HOUSE,
P.O.KADUPPASSERY, VIA.KALLETTUMKARA,
THRISSUR-680 698.

BY ADV. SRI.KOSHY GEORGE
SRI.P.I.DAVIS

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM.

3. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR.

4. THE DISTRICT EDUCATIONAL OFFICER,
CHAVAKKAD, THRISSUR.

5. THE CORPORATE MANAGER,
CORPORATE EDUCATIONAL AGENCY,
ARCHIODICESE OF TRICHUR, CATHOLIC ARCH BISHOPS
HOUSE, THRISSUR-680 005.

BY GOVT. PLEADER SRI. SANDESH RAJA FOR R1 TO R4
ADV. SRI.KURIAN GEORGE KANNAMTHANAM FOR R5

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 04/06/2007, ALONG WITH WA. NO. 887 OF 2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.S.Radhakrishnan**
**&**
**Antony Dominic, JJ.**
**==========**
**W.A.Nos.658 & 887 of 2007**
**==========**

**Dated this the 4th day of June, 2007.**

**JUDGMENT**

**Radhakrishnan,J.**

W.P.(C) No.21227 of 2005 was filed by the Corporate Manager seeking a writ of certiorari to quash Ext.P13 and for a declaration that Rule 51B, Chapter XIV-A K.E.R. cannot be made applicable to minority institutions when the claim is to appoint as teachers in such institutions. W.P.(C) No.22172 of 2005 was preferred seeking a writ of certiorari to quash Exts.P3 and P15 and for a mandamus directing the fifth respondent – Manager to implement Exts.P4, P6, P7 and P13 orders. Learned single Judge allowed W.P.(C) No.21227 of 2005 and dismissed W.P.(C) No.22172 of 2005 and W.P.(C) Nos. 14277 of 2006 and 16528 of 2006 were disposed of. The question that arises for consideration is whether the petitioner in W.P.(C) No.22172 of 2005 is entitled to get appointment under the Dying-in-Harness Scheme as contemplated under Rule 51B of Chapter XIV-A K.E.R. in the school under the management of the petitioner in W.P.(C) No.21227 of 2005.

2. One Mathai, father of the claimant died in harness on 22nd October, 1996 while he was working as Headmaster in one of the schools under the corporate educational agency. After his death, on 11.12.1996, the widow of late Mathai submitted an application before the Manager requesting for employment assistance to her minor son Julius Mathew on attainment of majority and acquisition of necessary qualifications. In October, 2001 she requested the management to give employment to her daughter, who is the appellant in both the appeals. Later on 29th July, 2002, the widow along with her son Julius Mathew sent Ext.P3 application to the Manager requesting that the claimant may be given employment instead of Julius Mathew. Ext.P3 application was rejected by the Manager on the ground that the claimant was not entitled to get the benefit of the Scheme. However, the Deputy Director of Education reversed the said order and directed the Manager to consider the application. The Manager took up the matter before the Director of Public Instruction and thereafter before the Government. The Director of Public Instruction and the Government also concurred with the order of the Deputy Director of Education. It is thereafter that the Manager filed W.P.(C) No.21227 of 2005.

3. At the time when the claimant submitted Ext.P3 application

for employment assistance, she had crossed the age of 27 years. Father died in 1996. At that time the claimant, who was the second child of the deceased employee was 21 years old and her sister was aged 23 years. Her younger sister was 19. The younger son on whose behalf assistance was sought by the widow immediately after the death of the employee, was only 15 years old. After indicating that the widow of the deceased was a Central Government employee working in the cadre of Sub Post Master and the claimant was married to a Senior Grade Auditor in the office of the Accountant General under the Central Government, the Manager stated that the claimant cannot be treated as a dependent of the deceased employee and therefore she is not entitled to get the benefit of the Dying-in-Harness Scheme. The third daughter of the deceased employee is a Doctor. She was married away in September, 2002. At the time of her marriage, she was working in the Medical College Hospital. Julius Mathew, on whose behalf the widow had preferred the application for appointment, is a B.Tech student in Cochin University. So far as the third daughter is concerned, she was doing her M.B.B.S. course at that time. The above facts would show that family of the deceased employee is not entitled to get the benefit of Dying-in-Harness Scheme. Taking into consideration all the aspects, the learned single Judge found that the

claimant is not entitled to the benefit of Rule 51B of Chapter XIV-A K.E.R.

We find no reason to interfere with the judgment of the learned single Judge. Writ Appeals are dismissed.

K.S.Radhakrishnan,
Judge.

Antony Dominic,
Judge.

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